

Franchise Tax Board**ANALYSIS OF AMENDED BILL**

Author: Huff et al. Analyst: Jennifer Bettencourt Bill Number: AB 1592
Related Bills: See Legislative History Telephone: 845-5163 Amended Date: March 29, 2007
Attorney: Doug Powers Sponsor: _____

SUBJECT: Physicians Uncompensated Medical Care Credit

SUMMARY

This bill would allow a credit for uncompensated medical care provided by physicians.

SUMMARY OF AMENDMENTS

The March 29, 2007, amendments removed the original provisions of the bill and replaced them with provisions that would allow a tax credit for the fair market value of medical care provided by physicians to certain eligible individuals. The department's analysis of the bill as introduced February 23, 2007, no longer applies.

PURPOSE OF THE BILL

It appears the purpose of this bill is to provide relief for physicians who incur expenses to provide health care for the uninsured.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2007.

POSITION

Pending.

SUMMARY OF SUGGESTED AMENDMENTS

Amendment 1 has been provided to correct a technical error.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director**Date**

Lynette Iwafuchi
for Selvi Stanislaus

5/9/07

ANALYSIS

FEDERAL/STATE LAW

Current federal and state laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Current federal and state laws also provide various tax credits designed to provide a tax incentive to taxpayers that incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they might not otherwise undertake. Federal and state law currently does not provide a credit similar to the credit proposed by this bill.

THIS BILL

This bill would allow a credit equal to 50% of the fair market value of uncompensated medical care provided by a physician during the taxable year to an eligible individual.

This bill would define the following terms:

- “Physician” means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.
- “Eligible individual” means a resident of this state who is not covered by health insurance and is a member of a household whose combined household adjusted gross income for the taxable year is less than the federal poverty level.

In addition, this bill would allow any excess credit amount to be carried forward to succeeding years until exhausted.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill uses terms that are undefined, namely “uncompensated medical care” and “health insurance.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

This bill would allow a credit for the “fair market value” of uncompensated medical care. It is recommended that the bill specify how fair market value must be computed. Lack of clear direction in the bill could be a compliance hardship for taxpayers and result in disputes between the department and taxpayers.

This bill requires that the combined household adjusted gross income for the “eligible individual” be less than the federal poverty level. It is unclear how the physician would obtain adjusted gross income information for individuals.

TECHNICAL CONSIDERATIONS

This bill defines “physician” as a physician and a surgeon licensed by the Medical Board of California, or the Osteopathic Medical Board of California, which would require the “physician” to be licensed as both. Amendment 1 has been provided to change ‘and’ to ‘or’.

LEGISLATIVE HISTORY

SB 1026 (Calderon, 2007/2008) would allow a tax credit to qualified health care providers for the amounts paid or incurred to provide health care to certain California residents. This bill has been double-referred to the Senate Health Committee and the Senate Revenue and Taxation Committee.

AB 218 (Maze, 2005/2006) and AB 293 (Maze, Parra 2005/2006) would have allowed a tax credit for doctors that treat Medi-Cal beneficiaries in specified counties. Both bills failed to pass out of the Assembly Revenue and Taxation Committee.

AB 988 (Maze, 2003/2004) would have allowed a tax credit for doctors that treat Medi-Cal beneficiaries in specified counties. AB 988 failed passage out of the first house by the constitutional deadline.

AB 2164 (Cogdill, 2001/2002) would have allowed a tax credit to medical professionals who work in rural communities. AB 2164 failed passage out of the Assembly Revenue and Taxation Committee.

OTHER STATES’ INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California’s income tax laws.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Revenue Impact of AB 1592 Enactment Assumed After June 30, 2007 (\$ in Millions)			
	2007-08	2008 -09	2009 -10
Revenue Impact	-\$130	-\$150	-\$165

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Research shows that the total uncompensated expenditures incurred by California practicing doctors and physician groups for the year 2007 would be approximately \$750 million. Based on industry data, it is estimated that \$300 million (40% X \$750 million) would be spent on uninsured individuals whose total household income would be less than the federal poverty level. This results in \$150 million in potential credits (\$300 million X 50% credit rate).

It is assumed that \$120 million (\$150,000 million X 80%) would be used due to sufficient tax liability, and any excess would be carried over and used against future tax liabilities.

It was assumed that physicians and physician groups can potentially deduct 10% of these same expenses under current law. Assuming a tax rate of 7% would result in an offset amount of approximately \$800,000 (rounded) for 2007. The numbers in the table above have been adjusted to reflect revenue estimates for fiscal years.

POLICY CONCERNS

To qualify for this credit, this bill would require that medical care be provided to a California resident; and makes no reference to where the services are to be performed or where the physician is to be located. These requirements may be subject to constitutional challenge under the Commerce Clause of the United States Constitution.

This bill would allow for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover period limitation because experience shows credits typically are exhausted within eight years of being earned.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

LEGISLATIVE STAFF CONTACT

Jennifer Bettencourt
Franchise Tax Board
(916) 845-5163
jennifer.bettencourt@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333
brian.putler@ftb.ca.gov

Analyst	Jennifer
	Bettencourt
Telephone #	845-5163
Attorney	Doug Powers

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1592
As Introduced March 29, 2007

AMENDMENT 1

Page 2, Line 7, after 'physician', strikeout 'and', add:
'or'